ATENT COOPERATION TRL. . TY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

BECKER, Jeffrey, M. et al

To:

Commissioner
US Department of Commerce
United States Patent and Trademark
Office, PCT
2011 South Clark Place Room
CP2/5C24
Arlington, VA 22202

Date of mailing (day/month/year)
07 November 2000 (07.11.00)

International application No.
PCT/US00/05158

International filing date (day/month/year)
01 March 2000 (01.03.00)

ETATS-UNIS D'AMERIQUE
in its capacity as elected Office

Applicant's or agent's file reference
1046-PCT-00

Priority date (day/month/year)
01 March 1999 (01.03.99)

		ternational Preliminary Examining Authority 06 September 2000 (06.09.00)		
		06 September 2000 (00.03.00)		
in a no	tice effecting later electi	ion filed with the International Bureau on:	· · · · · · · · · · · · · · · · · · ·	,
			· .	
	_			
The election	X was		•	
			•	
	was not	•	•	
made before	· ·	nths from the priority date or, where Rule 32	applies, within the time lim	t under
made before Rule 32.2(b).	the expiration of 19 mo	nths from the priority date or, where Rule 32	applies, within the time lim	t under
made before Rule 32.2(b).	the expiration of 19 mo	nths from the priority date or, where Rule 32	applies, within the time limi	t under
made before Rule 32.2(b).	the expiration of 19 mo	nths from the priority date or, where Rule 32	applies, within the time lim	t under
made before Rule 32.2(b).	the expiration of 19 mo	nths from the priority date or, where Rule 32	applies, within the time limi	t under
made before Rule 32.2(b).	the expiration of 19 mo	nths from the priority date or, where Rule 32	applies, within the time limi	t under

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Authorized officer

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(19) World Intellectual Property Organization International Bureau



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- (21) International Application Number: PCT/US00/05158
- (22) International Filing Date: 1 March 2000 (01.03.2000)
- (25) Filing Language:

English

(26) Publication Language:

English

(30) Priority Data: 60/122,312

1 March 1999 (01.03.1999) US

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- (71) Applicants and
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- (74) Agents: WEISER, Gerard, J. et al.; Schnader Harrison Segal & Lewis LLP, 36th floor, 1600 Market Street, Philadelphia, PA 19103 (US).
- (81) Designated States (national): AE, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CR, CU, CZ, DE, DK, DM, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW.
- (84) Designated States (regional): ARIPO patent (GH, GM, KE, LS, MW, SD, SL, SZ, TZ, UG, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

Published:

- With international search report.
- (88) Date of publication of the international search report: 4 January 2001

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

(54) Title: EUKARYOTIC PEPTIDE UPTAKE SYSTEM FOR TRANSPORTATION OF ENKEPHALINS

(57) Abstract: An oligopeptide transporter in the yeast Saccharomyces cerevisiae mediates the uptake of tetra- and pentapeptides, including the endogenous opioids leucine enkephalin (Tyr-Gly-Gly-Phe-Leu) and methionine enkephalin (Tyr-Gly-Gly-Phe-Met). The transporter is encoded by the gene OPT1. The system is specific for tetra- and pentapeptides and can be inhibited by the opioid receptor antagonists naloxone and naltrexone. Vectors allowing expression of OPT1 and methods of use are disclosed. Treatment of OPT1p with toxic enkephalins as an antifungal method is also disclosed.

PATENT COOPERATION TREA

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference FOR FURTHER see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.						
1046-PCT-00	ACTION (FORM PC1/ISA/2)	20) as well as, where applicable, item 5 below.				
International application No.	International filing date (day/month/year)	(Earliest) Priority Date (day/month/year)				
PCT/US 00/ 05158 01/03/2000 01/03/1999						
Applicant						
THE UNIVERSITY OF TENNESSEE RESEARCH CORPORATION						
This International Search Report has been according to Article 18. A copy is being tra	n prepared by this International Searching Auth ansmitted to the International Bureau.	nority and is transmitted to the applicant				
This International Search Report consists It is also accompanied by	of a total of sheets. a copy of each prior art document cited in this	renort				
It is also accompanied by	a copy of each phot are document cited in this	Teport.				
Basis of the report						
	international search was carried out on the bas ess otherwise indicated under this item.	is of the international application in the				
the international search w Authority (Rule 23.1(b)).	as carried out on the basis of a translation of the	ne international application furnished to this				
b. With regard to any nucleotide an was carried out on the basis of the		ternational application, the international search				
	nal application in written form.					
<u>-</u>	rnational application in computer readable form	ղ.				
	this Authority in written form. this Authority in computer readble form.					
T the statement that the sub	sequently furnished written sequence listing do	pes not go beyond the disclosure in the				
<u> </u>	s filed has been furnished.	identical to the written sequence listing has been				
furnished	•	,				
2. Certain claims were four	nd unsearchable (See Box I).					
3. Unity of Invention is laci	king (see Box II).					
4. With regard to the title,						
the text is approved as su	bmitted by the applicant.	_				
the text has been establis	hed by this Authority to read as follows:	• •				
		·				
	·					
5. With regard to the abstract,						
the text is approved as su	bmitted by the applicant. hed, according to Rule 38.2(b), by this Authorit	v as it annears in Boy III. The applicant may				
within one month from the	date of mailing of this international search rep					
6. The figure of the drawings to be publi	· ·					
as suggested by the appli		None of the figures.				
because the applicant faile	**					
Decause this rigure better	characterizes the invention.					

INTERNATIONAL SEARCH REPORT

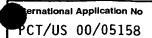
ternational Application No PCT/US 00/05158

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 C12N15/12 C07K14/705 C07K14/70 A01N33/00 C12N15/82 A01H5/00 According to International Patent Classification (IPC) or to both national classification and IPC B. FIELDS SEARCHED Minimum documentation searched (classification system followed by classification symbols) IPC 7 C12N C07K A01N A01H Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched Electronic data base consulted during the international search (name of data base and, where practical, search terms used) BIOSIS, EPO-Internal, FSTA, MEDLINE, STRAND, WPI Data, PAJ C. DOCUMENTS CONSIDERED TO BE RELEVANT Category ° Citation of document, with indication, where appropriate, of the relevant passages Relevant to claim No. LUBKOWITZ MARK A ET AL: 1-18 Α "Schizosaccharomyces pombe isp4 encodes a transporter representing a novel family of oligopeptide transporters." MOLECULAR MICROBIOLOGY, vol. 28, no. 4, May 1998 (1998-05), pages 729-741, XP000929697 ISSN: 0950-382X cited in the application the whole document Α WO 98 34950 A (UNIV TENNESSEE RES CORP 1-18 ;BECKER JEFFREY M (US); LUBKOWITZ MARK A () 13 August 1998 (1998-08-13) the whole document

X Further documents are listed in the continuation of box C.	Patent family members are listed in annex.	
 Special categories of cited documents: "A" document defining the general state of the art which is not considered to be of particular relevance "E" earlier document but published on or after the international filing date "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified) "O" document referring to an oral disclosure, use, exhibition or other means "P" document published prior to the international filing date but later than the priority date claimed 	 "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art. "&" document member of the same patent family 	
Date of the actual completion of the international search	Date of mailing of the international search report	
15 August 2000	07/09/2000	
Name and mailing address of the ISA	Authorized officer	
European Patent Office, P.B. 5818 Patentlaan 2 NL – 2280 HV Rijswijk Tel. (+31–70) 340–2040, Tx. 31 651 epo nl, Fax: (+31–70) 340–3016	Lejeune, R	

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INTERNATIONAL SEARCH REPORT



	ation) DOCUMENTS CONSIDERED TO BE RELEVANT	
Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	LUBKOWITZ MARK A ET AL: "An oligopeptide transport gene from Candida albicans." MICROBIOLOGY (READING), vol. 143, no. 2, 1997, pages 387-396, XP000929716 ISSN: 1350-0872 the whole document	1-18
P,X	HAUSER M ET AL: "Enkephalins are transported by a novel eukaryotic peptide uptake system." JOURNAL OF BIOLOGICAL CHEMISTRY., vol. 275, no. 5, 4 February 2000 (2000-02-04), pages 3037-3041, XP002144948 AMERICAN SOCIETY OF BIOLOGICAL CHEMISTS, BALTIMORE, MD., US ISSN: 0021-9258 the whole document	1-3, 15-18
A	TYNKKYNEN S ET AL: "Genetic and biochemical characterization of the oligopeptide transport system of Lactococcus lactis." JOURNAL OF BACTERIOLOGY 1993 RES. & DEV. CENT., VALIO LTD., PO BOX 390, SF-00101 HELSINKI, FINLAND, vol. 175, no. 23, pages 7523-7532, XP000929851 the whole document	
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INTERNATIONAL SEARCH REPORT

ormation on patent family members

rternational Application No PCT/US 00/05158

cited	itent document I in search repor	t	Publication date	F	atent family member(s)	Publication date
WO	9834950	Α	13-08-1998	EP	1015482 A	05-07-2000
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			•			
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PATENT COOPERATION TREATY

PCT

REC'D 1 7 JUL 2001

INTERNATIONAL PRELIMINARY EXAMINATION REPORTO

PCT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 1046-PCT-00	FOR FURTHER ACTION	ACTION See Notification of Transmittal of International Preliminary Examination Report (Form		
International application No.	International filing date (day/m	onth/year) Priori	ty date (day/month/year)	
PCT/US00/05158	01 MARCH 2000	01 1	MARCH 1999	
International Patent Classification (IPC) Please See Supplemental Sheet.	or national classification and IP	;		
Applicant THE UNIVERSITY OF TENNESSEE	RESEARCH CORPORATION			
 This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36. This REPORT consists of a total of sheets. This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). 				
These annexes consist of a total				
3. This report contains indication	s relating to the following ite	ng		
I X Basis of the repor	t			
II X Priority				
III Non-establishmen	at of report with regard to nov	elty, inventive step	or industrial applicability	
IV X Lack of unity of	invention			
	t under Article 35(2) with regar mations supporting such statem		ive step or industrial applicability;	
VI Certain documents	cited			
VII X Certain defects in t	he international application			
VIII X Certain observation	ns on the international applicat	on		
·				
		•		
	<u> </u>			
Date of submission of the demand	Date	f completion of this	report	
06 SEPTEMBER 2000	. 27	JUNE 2001		
Name and mailing address of the IPEA/	US Autho	ized officer		
Commissioner of Patents and Tradem Box PCT	arks BF	ONWEN M. LOEB	Colless for	
Washington, D.C. 20231 Facsimile No. (703) 305-3230	Telen	one No. (703) 308	L0196	
1 acontine 110. (103) 303-3230	I *e.ep.	(103) 300	/V	

Form PCT/IPEA/409 (cover sheet) (July 1998)*

International application No.

PCT/US00/05158

I.	Bs	sis	f	the report	
1.	With	rega	ard 1	to the elements of the international application:*	
••	$\overline{\mathbf{x}}$	_		nternational application as originally filed	
	岗	the	de	escription:	
		pag	ges	(See Attached)	
		Dag	ges	s	, filed with the demand
		pag	ges	, filed with the letter of	
	x	the	cla	laims:	
	L	pag	ges		, as originally filed
		pag	ges	s, as amended (together with any stat	ement) under Article 19
		pag	ges	s, , fi	iled with the demand
		pag	ges	, filed with the letter of	
ı	F	the	des	rawings:	
١	X			(See Attached)	, as originally filed
		pag	zes	S	, filed with the demand
		pag	ges	, filed with the letter of	
	_				
	X	the	seq	equence listing part of the description: (See Attached)	se originally filed
				(Occ Titalence)	filed with the demand
		pag	ses ses	, filed with the letter of	
		the	lan lang	inguage of a translation furnished for the purposes of international search (under inguage of publication of the international application (under Rule 48.3(b)). Inguage of the translation furnished for the purposes of international preliminary examinations.	
3.	Wit	h re	gar	ard to any nucleotide and/or amino acid sequence disclosed in the international agary examination was carried out on the basis of the sequence listing:	oplication, the international
		соп	ntai	ained in the international application in printed form.	
				together with the international application in computer readable form.	
	H			shed subsequently to this Authority in written form.	•
	님			ished subsequently to this Authority in computer readable form.	
	님			statement that the subsequently furnished written sequence listing does not go be	eyond the disclosure in the
	Ш	int	em	national application as filed has been furnished.	
				statement that the information recorded in computer readable form is identical to the furnished.	writen sequence listing has
4	<u>x</u>	Th	he a	amendments have resulted in the cancellation of:	
		X	3	the description, pagesNONE	
		X	3	the claims, Nos. NONE	
		Īx	₹	the drawings, sheets/fig NONE	
5	. [<u> </u>	his 1	report has been drawn as if (some of) the amendments had not been made, since the	y have been considered to go
	_	b	evo	and the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**	
	in i	laca	mer rep	ent sheets which have been furnished to the receiving Office in response to an invitation u port as "originally filed" and are not annexed to this report since they do not conta	under Article 14 are referred to in amendments (Rules 70.16
L	**An	y rei	plac	acement sheet containing such amendments must be referred to under item 1 and an	nexed to this report.

International application No.

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1. This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested: copy of the earlier application whose priority has been claimed. translation of the earlier application whose priority has been claimed. 2. X This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid.
translation of the earlier application whose priority has been claimed. 2. X This report has been established as if no priority had been claimed due to the fact that the priority claim has been found
2. X This report has been established as if no priority had been claimed due to the fact that the priority claim has been found
Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:
The priority document does not provide an enabling disclosure or written description for the claims as filed.

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IV.	. Lack of unity of invention
1.	In response to the invitation to restrict or pay additi nal fees the applicant has restricted the claims.
	paid additional fees.
	paid additional fees under protest.
	neither restricted nor paid additional fees.
2.	X This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68 not to invite the applicant to restrict or pay additional fees.
	This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3
is	complied with.
	not complied with for the following reasons:
	This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT Rule 13.1.
	Group I, claim(s)1-5, 15-18, drawn to a method for obtaining mammalian enkephalin transport proteins using expression in yeast.
(Group II, claim(s) 4-9, drawn to an antifungal composition and a method of using it. Group III, claim(s) 10-14, drawn to a vector for transformation of plant cells and a method of using it.
	The inventions listed as Groups I-III do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Each group has a different special technical feature not shared by the remaining groups. Group I is drawn to a method for obtaining mammalian enkephalin transport proteins. Group II is directed to an antifungal composition, and a method to use it, which has the special technical feature of using a toxic derivative of enkephalins as an active ingredient. Group III is directed to a vector for transformation of plant cells and a method of using it, which has the special technical feature of comprising a nucleic acid molecules encoding the protein of SEQ ID NO. 2.
4.	Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:
	X all parts.
	the parts relating to claims Nos

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V.	Reasoned statement und r Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such stat ment					
1.	statement					
	Novelty (N)	Claims	1-18	Y	ES	

Claims

 Inventive Step (IS)
 Claims
 NONE
 YES

 Claims
 1-18
 NO

NONE

Industrial Applicability (IA)

Claims
Claims
NONE

YES

2. citations and explanations (Rule 70.7)

Claims 1-18 are directed to a method for obtaining mammalian enkephalin transport proteins, an antifungal composition, a method of reducing or preventing fungal growth, a vector for transformation of plant cells, transformed cells and a method for cultivating plant material. These inventions were neither described nor enabled in the priority application. Therefore, claims 1-18 are being examined in light of the internation filing date of 01 March 2000.

Claims 1-3 and 15-18 lack an inventive step under PCT Article 35(3) as being obvious over Hauser et al. Hauser et al teach that the product of the yeast OPT1 gene can mediate enkephalin uptake (entire document). Hauser et al suggest the use of the yeast OPT1 gene in finding mammalian homologs (Abstract and p. 3040, final sentence). Cloning methods for mammalian genes are well-known to one of ordinary skill in the art. One of ordinary skill in the art would be motivated to use well-known cloning methods to obtain a mammalian enkephalin transport protein because of its clear medical value.

Claims 4-9 lack an inventive step under PCT Article 33(3) as being obvious over Rolka et al in view of Hauser et al, Univ. Tennessee Res. Corp. (WO 98/34950) and Andruskiewicz et al. Rolka et al teach toxic enkephalin analogs containing toxic amino acids (entire document). Hauser et al teach that yeast OPT1 gene product mediates uptake of enkephalins (entire document). Hauser et al further teach that the yeast OPT1 gene is a member of the OPT family of peptide transporters which family also includes Candida albicans (p. 3037, Introduction). Andruszkiewicz et al teach pentapeptides containing N3-(4-methoxyfumaroyl)-L-2,3-diaminopropanoic acid, have antifungal properties (p. 153, Table III). It would be obvious to one of ordinary skill in the art to combine the teachings of Rolka et al, Hauser et al, Andruszkiewicz et al to make an antifungal composition comprising a toxic derivative enkephalin. One would be motivated to do so because Univ. Tennesse Res. Corp. et al suggest it (Abstract and pages 4-5). The choice of toxic derivative would be obvious to (Continued on Supplemental Sheet.)

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VII. Certain defects in the international application The following defects in the form or contents f the international applicati n have been noted: Claim 13 objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: it ends with two periods. No page 16 was included in the draawings and has been treated accordingly.

International application No.

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VIII.	Certain	bservations	on th	international	application
-------	---------	-------------	-------	---------------	-------------

The following observations on the clarity of the claims, descriptin, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 6, 7 and 15-18 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because the claims are indefinite for the following reason(s): Claim 6 uses the terms "mutagenic nucleotide analogues" and "mutagenic nucleoside analogues" however the description does not define what these are. Claim 7 uses the term "unusual D-amino acids" which is vague and indefinite as the modifier "unusual" has no precise meaning and the description does not define it. Claims 15-18 are vague and indefinite as they lack a step which clearly relates back to the preamble.

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

CLASSIFICATION:

The International Patent Classification (IPC) and/or the National classification are as listed below: IPC(7): C12N 15/12, 15/82; CO7K 14/705, 14/70; AO1N 33/00; AO1H 5/00 and US C1.: 435/320.1,419,420,440; 514/2; 530/302

I. BASIS OF REPORT:

This report has been drawn on the basis of the description, page(s) 1-34, as originally filed.

page(s) NONE, filed with the demand.

and additional amendments:

NONE.

This report has been drawn on the basis of the claims, page(s) 35-38, as originally filed. page(s) NONE, as amended under Article 19. page(s) NONE, filed with the demand. and additional amendments:

NONE

This report has been drawn on the basis of the drawings, page(s) 1-15,18-21, as originally filed. page(s) NONE, filed with the demand. and additional amendments:

NONE.

This report has been drawn on the basis of the sequence listing part of the description: page(s) NONE, as originally filed.
pages(s) NONE, filed with the demand.
and additional amendments:
NONE

V. 2. REASONED STATEMENTS - CITATIONS AND EXPLANATIONS (Continued): one of ordinary skill in the art.

Claims 10-14 lack an inventive step under PCT Article 33(3) as being obvious over Hauser et al in view of Becker et al and West et al. Hauser et al teach that yeast OPT1 gene product mediates uptake of enkephalins (entire document). Hauser et al further teach that the yeast OPT1 gene is a member of the OPT family of peptide transporters which family also includes Candida albicans (p. 3037, Introduction). Univ. Tennessee Res. Corp. teach the idea of using OPT genes in plant cells in order to use specific oligopeptides as growth stimulators (page 5). It would be obvious to one of ordinary skill in the art to combine these teachings to develop a method of cultivating plant material using a vector for transforming plant cells comprising an OPT1 gene. One would be motivated to do so as it is well known that endogenous peptide transport is a significant source of nutrition. See for instance West et al, page 21, Abstract. The choice of plant to transform is obvious to one of ordinary skill in the art and one would be motivated to do so by the commercial demands of agriculture and horticulture.

ANDRUSZKIEWICZ et al. Anticandidal properties of N3-(4-methoxyfumaroyl)-L-2,3,-diaminopropanoic acid oligopeptides. J. Med. Chem. 1990, Vol. 33, pages 132-135.

ROLKA et al. Opiate-like peptides. Part XII. Synthesis and some biological properties of met-enkephalin analogues modified in position 2 by D-alanyl residue in positions 2 and 4 by 3-(2-napthyl)-D-alanyl residue. Pol. J. Pharmacol. Pharm. 1989, Vol. 41, pages 147-155.

International application No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT PCT/US00/05158

(To be used when the space in any of the preceding boxes is not sufficient)	
Continuation of: Boxes I - VIII	Sheet 11
WEST et al. Cloning and functional characterisation of a peptide transporter expressed in a during the early stages of germination. The Plant Journal. 1998, Vol. 15, pages 221-229.	the scutellum of barley grain
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